

**EXCEPTION**

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BEFORE THE ARIZONA CORPORATION COMMISSION

2015 FEB 24 P 2:41

COMMISSIONERS

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AZ CORP COMMISSION  
DOCKET CONTROL**ORIGINAL**

IN THE MATTER OF THE APPLICATION OF  
SULPHUR SPRINGS VALLEY ELECTRIC  
COOPERATIVE, INC., FOR APPROVAL OF  
REVISIONS TO ITS SERVICE CONDITIONS.

DOCKET NO. E-01575A-14-0378

**EXCEPTIONS OF SULPHUR  
SPRINGS VALLEY ELECTRIC  
COOPERATIVE, INC.**

On October 31, 2014, Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or the "Cooperative") filed an application with the Arizona Corporation Commission ("Commission") for Approval of Revisions to Service Conditions ("Service Conditions"). On November 26, 2014, SSVEC filed additional proposed revisions to the Service Conditions. On February 12, 2015, Utilities Division Staff ("Staff") filed a memorandum and proposed order recommending approval of the Service Conditions with certain modifications as agreed to by the Cooperative or as recommended by Staff. SSVEC appreciates the work that Staff has done in carefully reviewing the proposed revisions and largely supports the proposed order. However, the Cooperative disagrees with Staff's recommended modifications to two of the Service Conditions as described in the proposed order. Specifically, SSVEC requests that the Commission approve the requested revisions to Sections 2.4.8 and 3.6.3 and reject the modifications recommended by Staff. The reasons for requested revisions to the two sections are discussed below.

Arizona Corporation Commission  
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1           **Section 2.4.8 (Grounds for Refusal of Service).**

2           SSVEC is seeking to modify Section 2.4.8 (*Grounds for Refusal of Service*) to allow the  
3 Cooperative to refuse to establish new service to any applicant with an outstanding account  
4 balance, whether for the same class of service or for a different class of service. SSVEC  
5 believes that this revision is in the best interest of all of its member/customers, and the revision  
6 was unanimously approved by the board of directors elected by the members of the Cooperative.  
7 The following example illustrates the inequity that SSVEC seeks to address with the proposed  
8 revision. Two members appear at the Cooperative's office to apply for residential electric  
9 service at a new address. Member A has an outstanding \$500 bill for residential service at a  
10 different address. Member B has an outstanding \$50 bill for residential service at a different  
11 address and an outstanding \$450 bill for domestic well service (a different class of service) for  
12 the private well which served Member B at that address. Member A must pay the outstanding  
13 \$500 bill to establish residential electric service at the new address. However, Member B must  
14 pay only the outstanding \$50 bill to establish service at the new address. Under the current  
15 version of Section 2.4.8(A), the Cooperative cannot require Member B to pay the outstanding  
16 \$450 bill for the domestic well service even though the well was used to provide water at the  
17 residence. Thus, Member B gets new service by paying only the \$50 outstanding bill, and the  
18 remaining \$450 bill is uncollectible to the detriment of the Cooperative's other  
19 member/customers.

20           The concern raised by the example above is more than academic. SSVEC has more than  
21 18,000 members who have at least two classes of service at their residence. Many customers in  
22 the Cooperative's rural service area use private wells to serve their homes, and domestic well  
23 service is a different class of service than residential electric service. Additionally, many  
24 SSVEC members have farming operations and they have irrigation well service in addition to  
25 residential electric service and domestic well service. Each year, SSVEC has members who seek  
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1 to re-establish electric service or to establish new service at a new location where those members  
2 have unpaid bills for a different class of electric service. The revision that the Cooperative has  
3 proposed to Section 2.4.8(A) of the Service Conditions would address these situations in a way  
4 that is equitable to all of SSVEC's members.

5 Staff asserts that the requested revision does not comport with Arizona Administrative  
6 Code ("A.A.C.") R14-2-203(C)(1), which states that a utility may refuse service to a customer  
7 which has an outstanding balance for the same class of utility service. However, A.A.C. R14-2-  
8 203(C)(4) states that a utility may refuse service to any customer who is known to be in violation  
9 of the utility's tariffs filed with the Commission (which would include SSVEC's Service  
10 Conditions). Section 2.3.3 of the Service Conditions states that "[a]ll delinquent debts and  
11 liabilities of the Customer to SSVEC shall be paid before new or additional service can be made  
12 available."<sup>1</sup> Additionally, Section 2.19.1 of the Service Conditions states that "[a]ll bills for  
13 Electric Services are due and payable no later than fifteen (15) Days from the date of the bill."  
14 Thus, the Cooperative's proposed revision to Section 2.4.8(A) of the Service Conditions is  
15 consistent with A.A.C. R14-2-203(C). However, in the event the requested revision is deemed  
16 to conflict with A.A.C. R14-2-203(C), the Commission has authority to grant variations and  
17 exemptions to its rules for good cause pursuant to A.A.C. R14-2-212(I).

18 Staff also asserts that the requested revision conflicts with SSVEC's Service Condition  
19 2.20.1(C) which lists non-permissible reasons to disconnect electric service. However, SSVEC  
20 would point out that Section 2.4.8 deals with grounds for refusal of new service whereas Section  
21 2.20.1 addresses disconnecting existing service. SSVEC is not seeking any change to its policies  
22 and procedures on disconnecting service to existing members.

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26 <sup>1</sup> Emphasis added.

1 For the reasons set forth above, SSVEC requests that the Commission approve as  
2 submitted the proposed revision to Section 2.4.8(A) that was unanimously approved by the  
3 Cooperative's board of directors, which reads as follows:

- 4 A. The Applicant has an outstanding balance with SSVEC, and the Applicant  
5 is unwilling to make arrangements with SSVEC for payment.

6 For the Commission's consideration, attached hereto as Attachment 1 is Proposed  
7 Amendment #1 which revises the proposed order to approve the Cooperative's proposed  
8 revisions to Section 2.4.8(A) as submitted.

9 **Section 3.6.3 (Meter Error Corrections).**

10 SSVEC's proposed revision to Section 3.6.3 (*Meter Error Corrections*) of the Service  
11 Conditions addresses an apparent ambiguity in A.A.C. R14-2-210(E) dealing with meter errors  
12 and billing adjustments. A.A.C. R14-2-210(E)(1)(a) states, in part, that "[i]f the date of the  
13 meter error can be definitely fixed, the utility or billing entity shall adjust the customer's billings  
14 back to that date."<sup>2</sup> However, A.A.C. R14-2-210(E)(3) states that "[a]ny underbilling resulting  
15 from a stopped or slow meter, utility or Meter Reading Service Provider meter reading error, or a  
16 billing calculation shall be limited to three months for residential customers and six months for  
17 non-residential customers."<sup>3</sup> Thus, in a situation where the date of a meter error can be  
18 definitely fixed, can the utility adjust the billing back to that date or is the utility limited to three  
19 months for residential customers and six months for non-residential customers?

20 A reasonable application of the rule leads to the conclusion that where the date of a meter  
21 error can be definitely fixed, then the utility can adjust the billing back to that date, and the  
22 utility is not limited to three months or six months. However, where the date of the meter error  
23 cannot be definitely fixed, then the utility may only adjust the billing back three months for  
24 residential customers and six months for non-residential customers. In practice, this is how Staff

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26 <sup>2</sup> Emphasis added.

<sup>3</sup> Emphasis added.

1 has addressed meter errors and billing adjustments in the past for customers of SSVEC. The  
2 proposed revision to Section 3.6.3 of the Service Conditions simply seeks to memorialize the  
3 Cooperative's past practices.

4 SSVEC opposes Staff's recommended revision to Section 3.6.3(A) and the inclusion of a  
5 new Section 3.6.3(D) because it will prevent the Cooperative from adjusting a residential billing  
6 any further back than three months (or six months for a non-residential bill), even if the date of  
7 the meter error can be definitely fixed at an earlier date. This would disregard that portion of  
8 A.A.C. R14-2-210(E)(1)(a) which states that "[i]f the date of the meter error can be definitely  
9 fixed, the utility or billing entity shall adjust the customer's billings back to that date."<sup>4</sup>

10 SSVEC requests that the Commission approve the Cooperative's proposed revision to  
11 Section 3.6.3(A) as unanimously approved by the board of directors, which reads as follows:

12 If the date of the meter error can be definitely fixed, SSVEC shall adjust the  
13 customer's billings back to that date. If the date of the meter error can't be  
14 determined, adjustments to the customer's bills will be limited to three months for  
15 residential customers and six months for non-residential customers. If the  
16 customer has been under-billed, the Co-op will allow the customer to repay the  
17 difference over an equal length of time that the under-billings occurred. The  
18 customer may be allowed to pay the back bill without late payment penalties,  
19 unless there is evidence of meter tampering or energy diversion.

20 SSVEC further requests that the Commission reject the inclusion of a new Section  
21 3.6.3(D) in the Cooperative's Service Conditions as recommended by Staff. For the  
22 Commission's consideration, attached hereto as Attachment 2 is Proposed Amendment #2 which  
23 revises the proposed order to approve the Cooperative's proposed revisions to Section 3.6.3 as  
24 submitted.  
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26 <sup>4</sup> Emphasis added.

1 RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of February, 2015.

2 BROWNSTEIN HYATT FARBER SCHRECK LLP

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5 Jeffrey W. Crockett, Esq.  
6 One East Washington Street, Suite 2400  
7 Phoenix, Arizona 85004  
8 Attorneys for Sulphur Springs Valley Electric  
9 Cooperative, Inc.

8 **ORIGINAL** and thirteen (13) copies filed  
9 this 24<sup>th</sup> day of February, 2015, with:

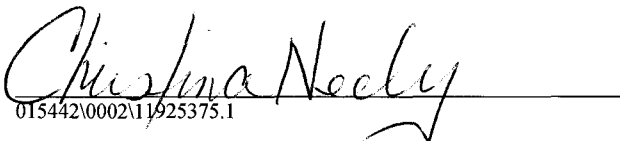
10 Docket Control  
11 ARIZONA CORPORATION COMMISSION  
12 1200 W. Washington  
13 Phoenix, Arizona 85007

14 **COPY** of the foregoing hand-delivered this  
15 24<sup>th</sup> day of February, 2015, to:

16 Lyn Farmer, Chief Administrative Law Judge  
17 Hearing Division  
18 ARIZONA CORPORATION COMMISSION  
19 1200 W. Washington Street  
20 Phoenix, Arizona 85004

21 Steven M. Olea, Director  
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# **ATTACHMENT 1**

## PROPOSED AMENDMENT # 1

DATE PREPARED: February 24, 2015

COMPANY: Sulphur Springs Valley Electric Cooperative, Inc.

DOCKET NO.: E-01575A-14-0378

OPEN MEETING DATES: March 2-3, 2015

AGENDA ITEM: U-

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Page 5, line 15, ADD a new Finding of Fact 24 as follows:

24. On February 24, 2015, SSVEC filed Exceptions addressing Staff's analysis of the requested revision to Section 2.4.8(A) of the Service Conditions. The Cooperative described the inequity that it seeks to address with the revision, explaining that many of its members have at least two classes of electric service at their residences and the existing policy allows some members to avoid paying outstanding bills to the detriment of SSVEC's other members. SSVEC asserts that the requested revision comports with A.A.C. R14-2-203(C)(4), which allows a utility to refuse service to a customer that is in violation of the utility's filed tariffs. SSVEC notes that Section 2.3.3 of the Service Conditions states that "[a]ll delinquent debts and liabilities of the Customer to SSVEC shall be paid before new or additional service can be made available," and Section 2.19.1 states that "[a]ll bills for Electric Services are due and payable no later than fifteen (15) Days from the date of the bill." In response to Staff's analysis, SSVEC asserts that if any conflict exists between the revised Service Condition and A.A.C. R14-2-203(C)(1), the Commission has the authority to grant variations and exemptions to its rules pursuant to A.A.C. R14-2-212(I). Finally, SSVEC notes that Section 2.4.8 of the Service Conditions deals with grounds for refusal of new service whereas Section 2.20.1 addresses disconnecting existing service. SSVEC is not seeking any change to its policies on disconnecting service to existing members. SSVEC requests that the Commission approve its proposed revision instead of that proposed by Staff.

Page 19, line 26,

ADD the words "and SSVEC's Exceptions dated February 24, 2015," between "2015," and the word "concludes."

Page 20, line 3,

DELETE "2.4.8,"

Page 20, lines 5-6,

DELETE the ordering paragraph.

Renumber the Findings of Fact as necessary.

Make all other conforming changes.



# **ATTACHMENT 2**

## PROPOSED AMENDMENT # 2

DATE PREPARED: February 24, 2015

COMPANY: Sulphur Springs Valley Electric Cooperative, Inc.

DOCKET NO.: E-01575A-14-0378

OPEN MEETING DATES: March 2-3, 2015

AGENDA ITEM: U-

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Page 19, line 3, ADD a new Finding of Fact 42 as follows:

42. On February 24, 2015, SSVEC filed Exceptions addressing Staff's analysis of the requested revision to Section 3.6.3 of the Service Conditions. The revision addresses what the Cooperative sees as an ambiguity in A.A.C. R14-2-210(E) dealing with meter error corrections. A.A.C. R14-2-210(E)(1)(a) states that "[i]f the date of the meter error can be definitely fixed, the utility or billing entity shall adjust the customer's billings back to that date." However, A.A.C. R14-2-210(E)(3) states that "[a]ny underbilling resulting from a stopped or slow meter, utility or Meter Reading Service Provider meter reading error, or a billing calculation shall be limited to three months for residential customers and six months for non-residential customers." SSVEC asserts that a reasonable application of the rule leads to the conclusion that where the date of a meter error can be definitely fixed, then the Cooperative can adjust the billing back to that date, and the Cooperative is not limited to three months or six months. SSVEC further asserts that where the date of the meter error cannot be definitely fixed, then the utility may only adjust the billing back three months for residential customers and six months for non-residential customers. SSVEC notes that in practice, this is how the Commission has addressed meter errors and billing adjustments in the past for customers of SSVEC, and that the proposed revision to Section 3.6.3 simply seeks to memorialize the Cooperative's past practices. SSVEC requests that the Commission approve its proposed revision instead of that proposed by Staff.

Page 19, line 26,

ADD the words "and SSVEC's Exceptions dated February 24, 2015," between "2015," and the word "concludes."

Page 20, line 4,

ADD the word "and" between "2.9.4," and "2.20.3," and DELETE ", and 3.6.3."

Page 20, lines 17-18,

DELETE the ordering paragraph.

Renumber the Findings of Fact as necessary.

Make all other conforming changes.